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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,761	12/05/2003	Charles A. Hamilton	END920030144US1	3210
7590 06/25/2007 John R. Pivnichny IBM Corporation / IP Law Dept. IQ0A Bldg. 040-3 1701 North Street Endicott, NY 13760			EXAMINER CHANG, SUNRAY	
			ART UNIT 2121	PAPER NUMBER
			MAIL DATE 06/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/729,761	Applicant(s) HAMILTON ET AL.	
	Examiner Sunray Chang	Art Unit 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 2,12 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-15,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in responsive to the paper filed on April 10th, 2007.

Claims 1, 3 – 11, 13 – 15 and 17 – 18 are presented for examination.

Claims 1, 3 – 11, 13 – 15 and 17 – 18 are rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. **Claims 1, 3 – 11, 13 – 15 and 17 – 18 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Edward Alun **Sketch** (U.S. PG. Pub. No. 2002/0077884, and referred to as **Sketch** hereinafter), and in view of Khai Minh Pham (U.S. Patent No. 5,970,482 and referred to as **Pham** hereinafter).

(**Sketch** as set forth above generally discloses the basic inventions.)

Regarding independent claims 1, 11 and 15,

Sketch teaches,

- a computer processor; [Fig. 4]
- program means on said processor for providing a learning solution context; [providing a variety of learning solutions for eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function, Abstract]
- a process for defining a learning solution [providing a variety of learning solutions for eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function, Abstract], comprising steps of:
- providing a learning solution context defining a ratio of formal to informal learning; [identifying and eliminating organization developmental roadblocks, making recommendations of possible changes to existing learning solutions based on learning solution evaluations, identifying the need for new learning solutions and linking training resources, products, services and consulting expertise to the needs of employees and third party learning solution customers, [0056]; learning solutions, [0032 – 0048]
- defining the content of each of a plurality of solution components to align with said solution context. [automatically locate the most appropriate learning solution(s) to include within the employee's online development plan, a dynamic search engine queries a database of all available learning solutions for at least one best-in-class learning solution that has been preselected for reducing or eliminating the particular competing gap and best matches the

employee's preferred method of learning, [0031]; providing a variety of learning solutions for eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function, Abstract]

The examiner explains, the term, “defining a ratio of formal to informal learning”, having the meaning of making possible changes to existing learning solutions as disclosed in **Sketch**. Further, “align with said solution context”, can be treated as “eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function” disclosed in **Sketch**.

Sketch does not teach a circular diagram having specific radial width for zones and an inner circular area.

Pham teaches a circular diagram [Fig. 1, Col. 5, lines 13 – 20], zones [Fig. 1, Col. 5, lines 22 – 33] and a pie-chart [Fig. 13B, Col. 22, lines 51 – 58], for the purpose of data mining using a unified neural multi-agent approach [Col. 2, lines 30 – 32].

It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Sketch** to include “a circular diagram having specific radial width for zones and an inner circular area”, for the purpose of data mining using a unified neural multi-agent approach [Col. 2, lines 30 – 32].

Regarding Claim 3, Sketch discloses:

Art Unit: 2121

The process of claim 1, wherein said zones represent types of interaction. (see pg 3, para 0032-0048. In these paragraphs **Sketch** discloses many different types learning solution or types of training which include various methods of . interaction.)

Regarding Claim 4, Sketch discloses:

The process of claim 1, wherein said solution components comprise purpose/outcomes, measurement, technology/infrastructure, resources, and process. (see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant's specification.)

Regarding Claim 5, Sketch discloses:

The process of claim 4, wherein said purpose is a business purpose comprising increasing sales, or decreasing errors (see Figure 3. "**Sketch** discloses being able to think cross-functionally about ideas that impact the business" Examiner notes that increasing sales or decreasing errors are two of the most important aspects of a business therefore thinking cross-functionally about ideas that impact the business would including thinking about ideas that would increase sales or decrease errors as claimed by applicant.)

Regarding Claim 6, Sketch discloses:

The process of claim 4, wherein said outcomes comprises employee compliance with regulations, certification in a profession, or performing new procedures. (see pg 1, para 0009. "eliminating gaps between the employee's current level of functional competency and the level of

Art Unit: 2121

functional competency required for the employee's employment function." & see pg 2, para 0012)

Regarding Claim 7, Sketch discloses:

The process of claim 4, wherein said measurement includes calculating a return on investment for learner performance. (see Figure 5, pg 1, para 0010, lines 1-3 and pg 4, para 0052-0053. Examiner notes evaluation method cited by **Sketch** in paragraphs 0052-0053 measurement which includes calculating a return on investment for learner performance or equivalent method of measurement as disclosed by applicant's specification.)

Regarding Claim 8, Sketch discloses:

The process of claim 4, wherein said technology/infrastructure includes network, hardware, and software, for access and delivery of learning experiences. (see Figure 4 and pg 4, para 0057-0063)

Regarding Claim 9, Sketch discloses:

The process of claim 4, wherein said resources comprises processes for adapting source material from content and curriculum publishers, scheduling space and equipment; assigning trainers, locating mentors, or licensing software. (see pg 4, para 0056, lines 1-9. "identifying the needs for new learning solutions and linking training resources, products, services, and consulting expertise to the needs of employees and third party learning solution customers. ")

Art Unit: 2121

Regarding Claim 10, Sketch discloses:

The process of claim 4, wherein said process comprises new governance committees, incentives to encourage new behaviors, or responsibilities for updates. (see pg 5, para 0064, lines 25-38 and para 0065)

Regarding Claim 13, Sketch discloses:

The system of claim 11, wherein said zones represent types of interaction. (see pg 3, para 0032-0048. In these paragraphs **Sketch** discloses many different types learning solution or types of training which include various methods of interaction.)

Regarding Claim 14, Sketch discloses:

The system of claim 11, wherein said solution components comprise purpose/outcomes, measurement, technology/infrastructure, resources, and process. (see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant's specification.)

Regarding Claim 17, Sketch discloses:

The computer program product of claim 15, wherein said zones represent types of interaction (see pg 3, para 0032-0048. In these paragraphs **Sketch** discloses many different types learning solution or types of training which include various methods of interaction.).

Regarding Claim 18, Sketch discloses:

Art Unit: 2121

The computer program product of claim 15, wherein said solution components comprise purpose/outcomes, measurements, technology/infrastructure, resources, and process (see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant's specification.).

Response to Amendment

Claim Rejections - 35 USC § 101

3. The examiner has withdrawn the 101 rejections to claims 1, 3 – 11, 13 – 15 and 17 – 18.

Claim Rejections - 35 USC § 112

4. The examiner has withdrawn the 101 rejections to claims 1, 3 – 11, 13 – 15 and 17 – 18.

Claim Rejections - 35 USC § 102 & 103

5. The forth 102 rejections, 103 rejections have been withdrawn; yet, based on **Sketch** reference, the examiner further cites a new reference to be combined with **Sketch** to form a new set of 103 rejections in current office action.

Art Unit: 2121

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang who may be reached Monday through Friday, between 8:00 a.m. and 5:00 p.m. EST. via telephone number (571) 272-3682 or facsimile transmission (571) 273-3682 or email sunray.chang@uspto.gov.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687.

The official facsimile transmission number for the organization where this application or proceeding is assigned is (571) 273-8300.



Anthony Knight
Supervisory Primary Examiner
Group Art Unit 2121
Technology Center 2100
U.S. Patent and Trademark Office

June 21, 2007